

Texas Real Estate Commission
CHAPTER 535, General Provisions
Rules Proposed at the August 1, 2011 Commission Meeting

Subchapter C. Exemptions to Requirements of Licensure

§535.31. Attorneys at Law

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.31, concerning Attorneys at Law. The amendments are proposed to implement the requirements of Senate Bill 747 (SB 747), 82nd Texas Legislature, Regular Session (2011). In part, SB 747 amended Texas Occupations Code, §1101.005 regarding an exemption for attorneys. The amendment now exempts attorneys licensed in the State of Texas; it previously applied to attorneys licensed in any state. Because the effective date of the relevant provisions of SB 747 is September 1, 2011, the commission is simultaneously taking emergency action to amend §535.31 to be consistent with SB 747.

The amendments to §535.31 clarify that the exemption only applies to attorneys licensed in the State of Texas.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the section. There is no anticipated impact on small businesses, micro-businesses or local or state employment as a result of implementing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Ms. DeHay also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be consistency between the Texas Occupations Code, Chapter 1101 and 22 TAC Chapter 535.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its licensees to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.31. Attorneys at Law ~~An [A—licensed]~~ attorney licensed in this state is exempt from the requirements of the Act but cannot sponsor real estate salespersons or serve as the designated officer or manager of a licensed corporation or limited liability company, or designated partner of a partnership unless the attorney is also licensed as a real estate broker. This provision is not a waiver of the standards of eligibility and qualification elsewhere established in the Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 4, 2011

TRD-201102966

Loretta R. DeHay

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: September 18, 2011